

**IN THE UNITED STATES PATENT & TRADEMARK OFFICE**

In re application of John R. Hind, et al.

June 13, 2007

Serial Nbr: 09/973,883

Filed: October 10, 2001

For: Adaptive Indexing Technique for Use with Electronic Objects

Art Unit: 2166 Examiner: Isaac M. Woo

**RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF**

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P. O. Box 1450  
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Sir:

This is a Response to the Notification of Non-Compliant Appeal Brief mailed May 25, 2007, which stated that the Summary of Claimed Subject Matter is defective in Appellants' Appeal Brief filed on August 17, 2006 (hereinafter, "Appellants' previously-filed Appeal Brief"). In accordance with MPEP §1205.03, titled "Non-Compliant Appeal Brief and Amended Brief", a replacement **SUMMARY OF CLAIMED SUBJECT MATTER** is provided herewith, and this replacement **SUMMARY** should be substituted for paragraphs 1 - 10 of Appellants' previously-filed Appeal Brief.

## 5) SUMMARY OF CLAIMED SUBJECT MATTER

1. Appellants' independent Claim 1 specifies a computer-implemented method for indicating criteria for organizing electronic objects, comprising elements of "detecting, by a user input monitor, that a user has swiped across an element of a rendered representation of an electronic object" (Claim 1, lines 3 - 4, emphasis added); "comparing a manner in which the swiping was performed, responsive to the detecting, to previously-defined settings that specify what manner of swiping indicates an identification of dynamically-identified, user-defined organizing criteria" (Claim 1, lines 5 - 7, emphasis added); and "storing, if the comparing step determines that the manner in which the swiping was performed is consistent with the specified settings, the swiped-across element in a repository of criteria, from which the stored element can subsequently be selected for inclusion in a pattern to be matched against electronic objects for programmatically organizing the electronic objects" (Claim 1, lines 8 - 11, emphasis added).

2a. In other words, with reference to the "detecting" element on lines 3 - 4 of Claim 1, a user performs a "swiping" action across an element of a rendered representation in some "manner" (Specification, p. 35, lines 12 - 15), for example by passing a mouse repeatedly over the element (Specification, p. 35, line 15 - p. 36, line 2, referring to an example from **Fig. 10A**). See also p. 36, lines 3 - 8, discussing a swiping of a portion of a rendered image (referring to an example from **Fig. 10B**); in this example, the "manner of swiping" is for the user to pass a hand-shaped cursor **1010** over a portion **1020** (corresponding to a bitmap for a Ford Mustang logo, in this example) of the image.

2b. With reference to the “comparing” element on lines 5 - 7 of Claim 1, the “previously-defined settings that specify what manner of swiping ...” are discussed on p. 37, lines 7 - 16 of the Specification, indicating that the settings may be “retrieved from a user-specific configuration file”. An example of using these previously-defined settings in the comparing is provided on p. 37, lines 12 - 14, referring to swiping twice (or multiple times) across an element. The “comparing” element is further discussed at p. 37, lines 17 - 19, stating “... see if a swiping operation is performed ...” and “If a swiping was indicated ...” (i.e., if the “comparing” from Claim 1, lines 5 - 7 has a positive result), referring to the test in **Block 960 of Fig. 9B**. So, if the previously-defined settings indicate swiping across an element three times, but the “manner in which the swiping [detected at lines 3 - 4 of Claim 1] was performed” (Claim 1, line 5) was to swipe across an element two times, then the comparing step (Claim 1, lines 5 - 7) has a negative result; on the other hand, if the user did swipe across the element three times, then the comparing step has a positive result, and the user has therefore identified a “dynamically-identified, user-defined organizing criteria” (Claim 1, lines 5 - 7; see also lines 8 - 9 of Claim 1).

2c. With reference to the “storing” element on lines 8 - 11 of Claim 1, the “storing ... of the swiped-across element in a repository of criteria” (lines 8 - 10 of Claim 1) is discussed at p. 35, lines 7 - 8, stating that “those criteria [which were selected using process **810**] are then stored **815** in a criteria repository **820**”. See also **Fig. 8**, illustrating the selecting **810**, the storing **815**, and the repository **820**. Page 37, lines 19 - 20 also state that the “selected element” (i.e., the element selected by the swiping operation) is stored in the criteria repository (referring also to **Block 965 of Fig. 9B**).

2d. The limitation on lines 10 - 11 of Claim 1 states “from which the stored element can subsequently be selected for inclusion in a pattern ... for programmatically organizing ... electronic objects” and refers to the swiped-across element stored in the repository of criteria. This limitation is discussed at p. 35, lines 8 - 9, referring to “[using] the criteria in repository **820** ... as input **825** [to a visual rule builder **830**] for building [**835**] new rules [**840**]”. See also p. 21, lines 8 - 9, referring to “search patterns (or rules, equivalently)”; p. 36, lines 2 - 3, referring to “us[ing] these selections [from **Fig. 10A**; see p. 35, line 19 - p. 36, line 2] as organizing criteria ...”. Page 22, lines 8 - 10 refer to using criteria to build rules, and p. 38, lines 8 - 11 also discuss using the user-selected criteria as feed back to the organizing system, stating that these criteria “may be presented to the user for building rules ...” and referring to **Fig. 4**. In particular, see the discussion on p. 29, lines 11 - 15 that refers to window **430** of **Fig. 4** and states that “... a miniature version of the Mustang logo might be presented in window 430 to enable the user to select the Mustang image as an index criterion” for the rule that is being built with the rule builder illustrated in **Fig. 4** (as indicated by reference number **410**). Page 27, lines 10 - 12 discuss selecting an image portion and storing it as a bitmap, and lines 12 - 15 refer to using the bitmap as an “inclusion criterion for aggregating objects”. Page 32, lines 5 - 10 also discuss presenting criteria from a repository on a selection menu, enabling a user to make a selection therefrom (referring to **Blocks 700 - 710 of Fig. 7**) for visually building rules; see also p. 32, lines 19 - 20, referring to selection menu **440**.

2e. Specification, p. 26, lines 8 - 9 and p. 26, line 13 - p. 27, line 19 refers in more detail to selecting a portion of an image as an organizing criterion and then using that criterion for

aggregating objects. Inclusion criteria and search patterns are further discussed at p. 21, lines 13 - 22 and p. 27, lines 2 - 5. See also p. 33, lines 4 - 5, referring to **Block 750** as “format[ting] a rule from the criteria which the user has indicated through [the] visual rule building process [of Fig. 7]”. Page 34, lines 4 - 7 refer to the swiping technique for indicating criteria as “by observing the individual user’s actions ... to dynamically indicate the criteria ...”.

3. Independent Claims 18 and 19 specify limitations similar to those of independent Claim 1, and in particular, specify “detect[ing]” and “compar[ing]” elements which are analogous to those of Claim 1. Accordingly, these “detect[ing]” and “compar[ing]” elements in Claims 18 and 19 find support in the same above-cited portions of the Specification that were described above in paragraphs 2a - 2b. Differences in the claim language in Claims 18 and 19, as compared to Claim 1, will now be discussed in paragraphs 3a - 3e.

3a. Claim 18 further specifies “a processor” (Claim 18, line 2). The “processor” element is described on p. 16, lines 10 - 17; p. 16, line 18 - p. 17, line 20; p. 18, lines 1 - 15; p. 39, lines 10 - 19 (and in particular, lines 14 - 19); and p. 40, lines 1 - 11 (and in particular, lines 1 - 5).

3b. Lines 8 - 10 of Claim 18 specify a claim element of “means for storing ... the swiped element in a repository of criteria usable by the processor for programmatically organizing electronic objects”. See paragraph 2c, above, for citations to discussions of this claim element in Appellants’ Specification.

3c. Lines 12 - 14 of Claim 18 specify a claim element of “means for enabling the stored element to be subsequently selected as an organizing criterion for use in a rule, wherein the rule can subsequently be used for programmatically organizing the electronic objects” (emphasis added). Refer to the discussion of **Blocks 700 - 710 of Fig. 7**, found on p. 32, lines 5 - 10 of Appellants’ Specification, where this element is discussed in terms of constructing a menu of organizing criteria and presenting this menu to the user for selection. Page 28, lines 1 - 6 of Appellants’ Specification refers to the user “invoking a visual rule builder” with which rules for organizing criteria can be defined (as further discussed at p. 28, line 9 - p. 29, line 18). See also paragraphs 2d - 2e, above, which provide citations to discussions in Appellants’ Specification of selecting a stored element/criterion for use in a rule.

3d. Claim 19 specifies a “store” limitation which is analogous to the “means for storing” element of Claim 18, and finds support in the same citations provided above in paragraph 3b.

3e. Claim 19 specifies an “enable” limitation which is analogous to the “means for enabling” element of Claim 18, and finds support in the same citations provided above in paragraph 3c.

4. Dependent Claim 2 specifies that the user can configure the defined settings (i.e., the settings that determine whether a swiping “indicates an identification of ... organizing criteria”; Claim 1, lines 5 - 7). Specification, p. 37, lines 7 - 16 and lines 18 - 19. Dependent Claim 3 specifies that the detected swiping comprises “repeatedly swiping across a word, a phrase, or one or more contiguous characters ...” (emphasis added). Specification, p. 37, lines 9 - 14; see also p.

35, lines 15 - 20. (Dependent Claim 7 also refers to “swiping across one or more words, phrases, or characters ...”; Specification, p. 35, lines 18 - 19.) Dependent Claim 4 specifies that the word/phrase/characters of Claim 3 is/are rendered “from a text document” (Specification, p. 35, lines 18 - 20), while dependent Claim 5 specifies that the rendering is “from an e-mail message” (Specification, p. 10, lines 7 - 8).

5. Dependent Claim 6 is not under appeal, and will not be discussed further herein. Dependent Claim 8 specifies “swiping across a portion of one or more images ...”. Specification, p. 26, line 16 - p. 27, line 19; and p. 36, lines 3 - 8; see also **Fig. 10B**.

6. Dependent Claim 10 specifies “... building one or more rules ... wherein the stored element [stored in response to a detected swiping that has a swiping manner consistent with previously-defined settings] is used as one of the organizing criteria in at least one of the rules”. Specification, p. 38, lines 8 - 11.

7. Dependent Claim 11 specifies that the swiping comprises “moving a mouse device across the element at least twice” (emphasis added). Specification, p. 36, lines 17 - 18; p. 37, lines 9 - 14. Dependent Claim 12 specifies that the user “mov[es] a light pen across the element at least twice” (emphasis added). Specification, p. 36, line 18; p. 37, lines 9 - 14. Dependent Claim 13 specifies that the user “mov[es] his or her finger at least twice across the element” (emphasis added). Specification, p. 35, lines 15 - 17; p. 37, lines 9 - 14. Dependent Claim 14 specifies that the user “us[es] an audio mechanism by speaking commands ...” (Specification, p. 37, lines 1 - 3

p. 37, lines 9 - 14), and dependent Claim 15 specifies that the user “pass[es] his or her eyes repeatedly over the element” (emphasis added; Specification, p. 36, line 19 - p. 37, line 1; p. 37, lines 9 - 14). Dependent Claim 16 specifies that the element “must be swiped across multiple times to indicate the identification” (emphasis added). Specification, p. 37, lines 9 - 14.

8. Dependent Claim 17 specifies “adding the swiped-across element to organizing criteria of an index, thereby causing the index to become adaptive to the user swipings”. Specification, p. 38, lines 4 - 5 and 8 - 11. See also p. 11, lines 2 - 5; p. 39, lines 8 - 9; p. 35, lines 6 - 15; reference numbers **810 - 850** of **Fig. 8**; and p. 36, lines 2 - 3.

9. Independent Claim 18 includes means plus function terminology. Structure, material, or acts supporting this terminology are described in Appellants’ Specification, as will now be described.

10. The “processor” element on line 2 of Claim 18 is described on p. 16, lines 10 - 17, in terms of a “computing or processing device”; see also the discussions of processing/computing devices at p. 16, line 18 - p. 18, line 15. Page 39, lines 10 - 19 (and in particular, lines 14 - 19) discusses “... means for implementing the functions specified in the flowchart ...”; see also p. 40, lines 1 - 11 (and in particular, lines 1 - 5, discussing “... instruction means which implement the function specified in the flowchart ...”).

10a. With regard to the “means for detecting” element on lines 3 - 4 of independent Claim 18,

the text on p. 36, line 12 - p. 37, line 6 describes various user input monitors that might be used for detecting a swiping. Page 16, lines 10 - 16 discuss a device “which is capable of receiving a user’s selection [e.g., by swiping] of organization criteria ...”. The “electronic object” discussed at line 4 of Claim 18 is described on p. 25, lines 13 - 17 as being “stored on the user’s computer” or “accessible to the computer which performs the indexing [i.e., organizing]”.

10b. For the “means for comparing” element on lines 5 - 7 of Claim 18, the text on p. 37, lines 7 - 18 describes obtaining configuration settings from a user-specific configuration file and using those settings (i.e., comparing them to the detected manner of swiping) to see if a swiping operation has been performed by the user. See also reference numbers **945** and **960** of **Fig. 9B**.

10c. The “means for storing” element on lines 8 - 10 of Claim 18 is discussed at p. 37, lines 19 - 20 (“stores the selected element in the criteria repository”), and the repository of criteria is illustrated at reference number **820** of **Fig. 8**. See also reference number **965** of **Fig. 9B** and p. 35, lines 6 - 9, which discusses repository **820**.

10d. The “means for enabling” element on lines 12 - 14 of Claim 18 is discussed at p. 38, lines 8 - 11 (referring to the system of **Fig. 8** and “building rules to be used by an indexing engine”). See also p. 29, lines 13 - 15, discussing an example where a user selects a previously-stored image from a graphical window **430** as an organizing criterion when building a rule with visual rule builder **410**, and p. 16, lines 10 - 16, referring to devices capable of “analyzing [i.e., programmatically organizing] objects using [user-selected] criteria”.

**REMARKS**

As noted above, a replacement **SUMMARY OF CLAIMED SUBJECT MATTER** is provided herein, and this replacement **SUMMARY** is to be substituted for the **SUMMARY** in Appellant's Appeal Brief filed on August 17, 2006.

Appellants respectfully submit that this replacement **SUMMARY** addresses the concerns noted in the **Notification of Non-Compliant Appeal Brief** mailed on May 25, 2007.

The Examiner is respectfully requested to contact the undersigned Appellants' representative if any further information is deemed necessary.

Respectfully submitted,

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